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**7 Attorneys for Representative Plaintiff
And the Plaintiff Class**

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

SEAN BARNES, individually, and on behalf of all others similarly situated.

Case No. CV-10-03586 LB

CLASS ACTION

vs.
THE EQUINOX GROUP, INC.,
and DOES 1 through 100, inclusive.

**STIPULATION AND [PROPOSED] ORDER
RE FILING AND SERVICE OF FIRST
AMENDED COMPLAINT**

Defendants.

SCOTT COLE & ASSOCIATES, APC
ATTORNEYS AT LAW
THE WACHOVIA TOWER
1740 BROADWAY, SUITE 1100
OAKLAND, CA 94612
TEL: (510) 891-4800

1 **WHEREAS** on June 1, 2010, Plaintiff Sean Barnes ("Plaintiff") filed a Class Action
2 Complaint for Damages, Injunctive Relief, and Restitution in San Francisco Superior Court;

3 **WHEREAS** on August 11, 2010, Defendant The Equinox Group, Inc. ("Defendant")
4 filed its Answer to Plaintiff's Complaint;

5 **WHEREAS** on August 12, 2010, Plaintiff filed his First Amended Complaint in San
6 Francisco Superior Court prior to receiving Defendant's Answer;

7 **WHEREAS** on August 13, 2010, Defendant filed Notice of Removal of Civil Action to
8 this Court prior to receiving Plaintiff's First Amended Complaint; and

9 **WHEREAS** the parties agree to adopt the First Amended Complaint as the operative
10 pleading in this matter.

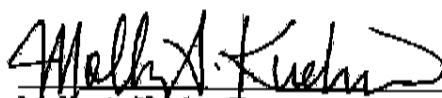
11 **THEREFORE**, the parties, through their undersigned respective counsel, stipulate and
12 request that the Court hereby order that, good cause appearing, Plaintiff's First Amended
13 Complaint for Damages, Injunctive Relief and Restitution may be adopted as the operative
14 pleading, and Defendant shall file and serve its Answer thereto within 20 days of this Stipulation.

16 **IT IS SO STIPULATED, BY AND THROUGH COUSEL OF RECORD.**

18 Dated: September 23, 2010

SCOTT COLE & ASSOCIATES, APC

20 By:

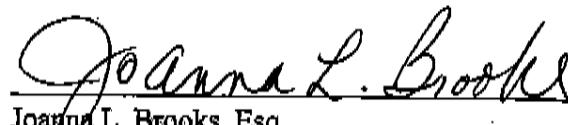


Molly A. Kuehn, Esq.
Attorneys for the Representative Plaintiff
and the Plaintiff Class

24 Dated: September 30, 2010

JACKSON LEWIS LLP

26 By:


Joanna L. Brooks, Esq.
Attorneys for Defendant
The Equinox Group, Inc.

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[PROPOSED] ORDER

For good cause shown, **IT IS HEREBY ORDERED.**

October 4

Dated: September, 2010

By:

The Hon. Laurel Beeler
United State District Judge



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